

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DOCTOR'S ASSOCIATES INC.)	
)	Civil Action No.08-3363WJM
Plaintiff,)	
)	Judge: Honorable
v.)	William J. Martini, USDJ
)	
JESAL DESAI a/k/a JESAL A. PATWARI,)	
SHAPAT, INC., SHAPAT II, LLC)	
SHAPAT III, LLC and PATWARI, LLC)	
)	
Defendants.)	
)	
JESAL DESAI, SHAPAT, INC., SHAPAT)	
II, LLC, SHAPAT III, LLC, and)	
PATWARI, LLC,)	
)	
Plaintiffs,)	Civil Action No.08-3902PGS
)	
v.)	
)	
DOCTORS ASSOCIATES INC. and)	
SUBWAY REAL ESTATE CORPORATION,)	
)	
Defendants.)	
)	

CERIFICATION OF PATRICK DEENEY

I, Patrick Deeney, being of age, hereby certifies and says as follows:

1. I am employed by Subway Development Company of New Jersey 811 Totowa Road, Totowa, NJ, as an independent field consultant.

2. I make this Certification in support of Plaintiff, Doctor's Associates Inc.'s (hereinafter "**Doctor's Associates**"), Application for an Order holding Defendants in contempt of Court

for violation of the Court's Injunction Order entered August 12, 2008 and enforcing said Injunction.

3. During the course of my employment, Yogesh Dave, a Subway Development Agent from **Doctor's Associates**, requested that I visit Defendants' four (4) restaurants located at 121 Bloomfield Avenue, Bloomfield, NJ (hereinafter "store #40217"), 595 Bloomfield Avenue, Bloomfield, NJ (hereinafter "store #15953"), 49 Claremont Avenue, Montclair, NJ (hereinafter "store #27800") and 6901 Guttenberg Avenue, Guttenberg, NJ (hereinafter "store #29895"), respectively (hereinafter collectively "Defendant's Restaurants"), to determine if the Defendant's Restaurants were still open for business, and if so, whether they were operating under the **Subway®** name and using any of **Doctor's Associates** trademarks or service marks associated with the **Subway®** franchise chain (hereinafter "the **Subway®** Marks") in violation of the injunction entered by the United States District Court August 12, 2008, effective August 11, 2008.

4. On August 18, 2008, I visited all of the Defendant's Restaurants. All of Defendant's Restaurants were in fact open for business and operating as if they were authorized **Subway®** franchises and were utilizing the **Subway®** Marks. True and accurate copies of photographs I took during my visits on August 18, 2008 are attached hereto as **Exhibit "A"** each labeled by address.

5. During my visits, I noticed that several of the **Subway®** Marks were still being used by Defendants on, and inside, all of Defendant's Restaurants. Attached hereto as **Exhibit "B"** is a schedule setting forth the specific **Subway®** Marks that I saw being used on or inside Defendants' Restaurants, in violation of the aforementioned injunction (hereinafter "the Infringed Marks").

6. During the aforementioned visits to all of the Defendant's Restaurants on the afternoon of August 18, 2008, I first noticed, as I approached each of Defendant's Restaurants that a large **Subway®** sign was lit up in front of each. During the visits, I subsequently entered each restaurant, all of which were open for business and continuing to operate as if they were authorized **Subway®** Franchises and each using several **Subway®** Marks. While I was inside each restaurant, I noticed that customers at each restaurant were purchasing sandwiches wrapped in **Subway®** paper and placed in a **Subway®** bag with a **Subway®** napkin. The paper, bag and napkin each prominently displayed **Subway®** Marks. Pictures of each of Defendant's four (4) restaurants depicting the foregoing are annexed hereto as Exhibit "**A**", each labeled by address.

7. On August 18, 2008, while I was in each of Defendants' respective stores, I made a purchase and obtained a receipt. Each of the receipts bear the Subway name and/or slogan. Copies

of each of the four (4) receipts from the four (4) respective stores are annexed hereto as **Exhibit "C"**.

8. I certify that the foregoing statements are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: August 26, 2008

/s/ PATRICK DEENEY
PATRICK DEENEY

(Forrest/DenneyDesaiFederalContempt.Ctf)

EXHIBIT A